

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

GEORGE TAPP - ALLEGED VIOLATION OF)	
UNDERGROUND FACILITY DAMAGE)	CASE NO.
PREVENTION ACT)	2019-00163

ORDER

A hearing was held before the Kentucky Public Service Commission (PSC) on August 9, 2019 at its offices at 211 Sower Boulevard, Frankfort, Kentucky concerning the allegation that George Tapp (Tapp) violated KRS 367.4911(1)(a) on September 7, 2018 at 352 Conner Station Road, Simpsonville, Kentucky 40067 when he damaged a natural gas pipeline while conducting excavation operations without making a line location request to the One Call Center within 21 calendar days of the excavation. Mr. Tapp was served with process and notified of the hearing date and time and thereafter filed a response to the initiating order which was received by the PSC on July 23, 2019. In his response, Mr. Tapp acknowledged damaging the line and causing a natural gas leak. He also claimed that damage to the natural gas line had been paid in full to Louisville Gas and Electric Company by the landowner. Mr. Tapp failed to appear at the hearing to contest the allegations and the PSC investigator, Eric Tout testified that he interviewed Mr. Tapp by telephone on April 4, 2019 and that Mr. Tapp admitted that he had obtained no locate ticket number from 811 and that he struck the Louisville Gas and Electric Company natural gas service line while conducting excavation activities.

FINDINGS OF FACT

The testimony presented at the hearing as well as the exhibits filed in the record stand un rebutted and establish that:

1. Tapp was at the time the damage occurred on September 7, 2018 an excavator as defined by KRS 367.4903(4) who caused damage to a natural gas service line by means of excavation as defined by KRS 367.4903(2) and (6). The natural gas service line was an underground facility owned and operated by Louisville Gas and Electric Company to serve the public. The service line contained natural gas at the time it was damaged by Tapp.

2. Tapp failed to call the Kentucky Contact Center (One Call Center or Protection Notification Center) to obtain information about the approximate location of the damaged natural gas service line not less than two (2) nor more than ten (10) full working days prior to commencing work as required by KRS 367.4911(1)(a).

3. Tapp's excavation work was not emergency work within the scope of KRS 367.4907 or the definition of "Emergency" as defined in KRS 367.4903(7) and no exception to the call requirement is applicable to this case.

4. There are no known mitigating factors which would merit the imposition of a fine less than the maximum provided by law. This violation is Tapp's first offense.

CONCLUSIONS OF LAW

1. George Tapp violated the requirements of KRS 367.4911(1)(a) by failing to provide the operator of an underground facility serving the public with notification of his

intended work and work schedule not less than two (2) nor more than ten (10) full working days prior to commencing work.

2. KRS 367.4917(1) provides that an excavator who fails to comply with any provision of KRS 367.4911 shall be guilty of endangering underground facilities and may be subject to a fine of two hundred and fifty dollars (\$250) for the first offense.

3. KRS 367.4917(4) provides that any person who violates any provision of the act that involves damage to a facility containing any flammable, toxic, corrosive, or hazardous material or results in the release of any flammable, toxic, corrosive, or hazardous material shall be subject to a fine not to exceed one thousand dollars (\$1,000) for each offense.

4. George Tapp is, by reason of his failure to comply with the applicable provisions of Underground Facility Damage Prevention Act as hereinbefore set out, subject to a maximum fine of one thousand two hundred and fifty dollars (\$1,250).

IT IS THEREFORE ORDERED that:

1. George Tapp is assessed a fine of one thousand two hundred fifty dollars (\$1,250) for violation of KRS 367.4911(1)(a) for failure to provide Louisville Gas and Electric Company, the operator of an underground facility serving the public, with notification of his intended work and work schedule not less than two (2) nor more than ten (10) full working days prior to commencing work.

2. George Tapp shall pay one thousand two hundred fifty dollars (\$1,250) within thirty (30) days of the date of this order by cashier's check or money order payable

to the Kentucky State Treasurer and mailed or delivered to the office of the Kentucky Public Service Commission at 211 Sower Boulevard, Frankfort, KY 40602.

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By the Commission



Commissioner Talina Mathews did not participate in the deliberations or decision concerning this case.

ATTEST:


Executive Director

George Tapp
102 Rolling Ridge Way
Simpsonville, KENTUCKY 40067